



November 30, 2018

Big Ox Energy Siouxland  
c/o Desiree McCaslen Regulatory Compliance Director BOE  
1616 D Ave.  
South Sioux City, NE 68776

Ms. McCaslen,

This letter is intended to formally address Big Ox's response to the NOV's Dated 10-4-2018 and 10-26-2018. We appreciate your response and concerns regarding these Notices. To address and resolve any sampling or result discrepancies relating to any Notices or Orders issued by the City, it is imperative that we receive these communications within the required 10-day response time.

Reviewing Big Ox's evidence regarding the TSS result discrepancy for 10-18-2018, the City cannot conclusively determine that an error was made whether the correct result was recorded for the 18<sup>th</sup>. During that period, it had been communicated to Pretreatment Staff by Big Ox staff that there had been sampler issues. When samples were collected, Big Ox staff confirmed that sampling issues could have compromised the accuracy of the samples. Big Ox staff said that the samples were likely not representative due to the errors. Based on this communication, the samples were discarded without analysis. For this reason, the City does not have results from the 19<sup>th</sup> to corroborate that a sample switch occurred. It is noted, however, that Sioux City wastewater laboratory observed that the jar was labeled as the 18<sup>th</sup> by Big Ox staff. It is the City's conclusion that the City result is to be upheld and the violation remains in effect regardless of which day the sample was collected.

Please note that all samples which are analyzed for pollutants defined in the Industrial User Permit which are collected at the compliance point and analyzed per the methodology of 40 CFR 136 are required to be submitted to the City. As required in the IU permit all samples shall be submitted as a report with the appropriate certification signed by a signatory authority or an appropriately designated authorized individual. Any sample collected shall the sample documentation shall include the chain of custody and analytical documentation required in the IU permit.

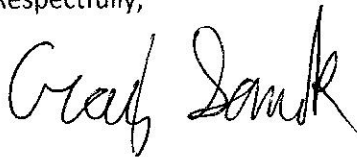
In response to the fine schedule, City Code 13.07.110 states that enforcement actions are documented in the City of Sioux City Enforcement Response Plan. Said ERP documents the fine schedule beginning at NOV for first infraction followed by \$175 per day per violation escalating to no more than \$1,000 per day per violation. However, it also states that "If necessary, based on the magnitude or impact, the

Pretreatment Manager may decide that the nature of violation is serious enough to issue \$1,000 per violation immediately."

For these reasons, including the on-going TSS violations, the City considers all fines issued to date to be appropriate for the magnitude and severity of the infractions. No reductions in fines shall be made and continued TSS non-compliance will be enforced at \$1,000 per day per violation.

The City will continue to take concerns seriously and work to resolve them in a timely and professional manner. However, the primary focus of enforcement and required response is to address the violation or potential violation and document the actions being taken to prevent future non-compliance. **Big Ox must respond to this communication by December 5, 2018 detailing the specific actions that were taken to resolve the violation and additional actions taken to prevent future TSS violations related to the violations to which the notice of violation refers.** Please contact myself or Mark Simms if you have any additional questions.

Respectfully,



Craig Samek  
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